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JUDICIARY

HOUSE FILE

500

BY BURNETT

*3/9/99 Sponsor added 3/9/99 Davis*

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to filing fees and service and other costs for  
2 petitions for relief from domestic abuse.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*HF 500*

1 Section 1. Section 236.3, Code 1999, is amended to read as  
2 follows:

3 236.3 COMMENCEMENT OF ACTIONS -- WAIVER TO JUVENILE COURT.

4 1. A person, including a parent or guardian on behalf of  
5 an unemancipated minor, may seek relief from domestic abuse by  
6 filing a verified petition in the district court. Venue shall  
7 lie where either party resides. The petition shall state all  
8 of the following:

9 ~~1-~~ a. Name of the plaintiff and the name and address of  
10 the plaintiff's attorney, if any. If the plaintiff is  
11 proceeding pro se, the petition shall state a mailing address  
12 for the plaintiff.

13 ~~2-~~ b. Name and address of the parent or guardian filing  
14 the petition, if the petition is being filed on behalf of an  
15 unemancipated minor. For the purposes of this chapter,  
16 "plaintiff" includes a person filing an action on behalf of an  
17 unemancipated minor.

18 ~~3-~~ c. Name and address, if known, of the defendant.

19 ~~4-~~ d. Relationship of the plaintiff to the defendant.

20 ~~5-~~ e. Nature of the alleged domestic abuse.

21 ~~6-~~ f. Name and age of each child under eighteen whose  
22 welfare may be affected by the controversy.

23 ~~7-~~ g. Desired relief, including a request for temporary or  
24 emergency orders.

25 ~~if-the-plaintiff-files-an-affidavit-stating-that-the~~  
26 ~~plaintiff-does-not-have-sufficient-funds-to-pay-the-cost-of~~  
27 ~~filing-and-service, the-petition-shall-be-filed-and-service~~  
28 ~~shall-be-made-without-payment-of-costs.--if-a-petition-is~~  
29 ~~filed-and-service-is-made-without-payment-of-costs, the-court~~  
30 ~~shall-determine-at-the-hearing-if-the-payment-of-costs-would~~  
31 ~~prejudice-the-plaintiff's-financial-ability-to-provide~~  
32 ~~economic-necessities-for-the-plaintiff-or-the-plaintiff's~~  
33 ~~dependents.--if-the-court-finds-that-the-payment-of-costs~~  
34 ~~would-not-prejudice-the-plaintiff's-financial-ability-to~~  
35 ~~provide-economic-necessities-for-the-plaintiff-or-the~~

1 ~~plaintiff's dependents, the court may order the plaintiff to~~  
2 ~~pay the costs of filing and service. However, in making the~~  
3 ~~determinations, the court shall not consider funds no longer~~  
4 ~~available to the plaintiff as a result of the commencement of~~  
5 ~~the action.~~

6 2. a. The plaintiff shall not be required to pay a filing  
7 fee or any service or other costs in order to file the  
8 petition and to have the original notice served under this  
9 section.

10 b. The court may assess costs of filing and services to a  
11 defendant as court costs pursuant to section 236.5, subsection  
12 3.

13 3. If the person against whom relief from domestic abuse  
14 is being sought is seventeen years of age or younger, the  
15 district court shall waive its jurisdiction over the action to  
16 the juvenile court.

17 Sec. 2. Section 236.3A, subsection 1, Code 1999, is  
18 amended to read as follows:

19 1. The department shall prescribe standard forms to be  
20 used by plaintiffs seeking protective orders by proceeding pro  
21 se in actions under this chapter. ~~The standard forms shall~~  
22 ~~include language in fourteen-point boldface type, with a box~~  
23 ~~which may be checked by the plaintiff, indicating that the~~  
24 ~~plaintiff wishes to proceed by filing an affidavit pursuant to~~  
25 ~~section 236.3, because the plaintiff does not have sufficient~~  
26 ~~funds to pay the cost of filing and service.~~ Standard forms  
27 prescribed by the department shall be the exclusive forms used  
28 by plaintiffs proceeding pro se, and may be used by other  
29 plaintiffs. The department shall distribute the forms to the  
30 clerks of the district courts.

31 Sec. 3. Section 236.12, subsection 1, paragraph c,  
32 unnumbered paragraph 3, Code 1999, is amended to read as  
33 follows:

34 You have the right to seek help from the court to seek a  
35 protective order with or without the assistance of legal

1 representation. You have the right to seek help from the  
2 courts without the payment of ~~court-costs-if-you-do-not-have~~  
3 sufficient-funds-to-pay-the-costs filing fees or any service  
4 or other costs of service.

5 Sec. 4. Section 602.8105, Code 1999, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 2A. Notwithstanding subsections 1 and 2,  
8 the clerk of the district court shall not charge a filing fee  
9 or the costs of service to a plaintiff filing a petition filed  
10 under section 236.3.

11 Sec. 5. Section 915.50, subsection 1, Code 1999, is  
12 amended to read as follows:

13 1. The right to file, without payment of filing fees or  
14 costs of service, a pro se petition for relief from domestic  
15 abuse in the district court, pursuant to sections 236.3  
16 through 236.10.

17 EXPLANATION

18 This bill amends the Code in chapter 236 and elsewhere as  
19 it relates to filing a court petition for relief from domestic  
20 abuse.

21 The bill amends Code section 236.3 to provide that a  
22 plaintiff may file a petition seeking a protective order  
23 against domestic abuse without payment of a filing fee or the  
24 costs associated with service. The court may order the  
25 defendant to pay these costs as court costs pursuant to Code  
26 section 236.5. Related changes are made to Code section  
27 236.3A, regarding forms used, Code section 236.12, regarding  
28 the notification of rights that a law enforcement officer  
29 gives a victim of domestic abuse, and to Code section  
30 602.8105, regarding filing fees for civil cases. The change  
31 is also reflected in an amendment to Code section 915.50,  
32 regarding the rights of victims of domestic abuse.

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